

AMENDED IN SENATE AUGUST 15, 2005

AMENDED IN SENATE MARCH 29, 2005

Senate Constitutional Amendment

No. 12

Introduced by ~~Senator Torlakson~~ *Senators Torlakson and Kehoe*
(Principal coauthors: Assembly Members Mullin and Salinas)

February 23, 2005

Senate Constitutional Amendment No. 12—A resolution to propose to the people of the State of California an amendment to the ~~Constitution of the State, by amending Section 8 of Article XVI thereof, relating to school finance.~~ *Constitution of the State, by amending Section 19 of Article I thereof, relating to eminent domain.*

LEGISLATIVE COUNSEL'S DIGEST

SCA 12, as amended, Torlakson. ~~Education finance: minimum amount.~~ *Eminent domain.*

The California Constitution authorizes governmental entities to take or damage private property for public use only when just compensation, ascertained by a jury unless waived, has first been paid to the owner, or into court for the owner. It also authorizes the Legislature to provide for possession by the condemnor following commencement of the eminent domain proceedings, upon deposit in court and prompt release to the owner of the money determined by the court to be the probable amount of the just compensation.

This measure would declare, for this purposes, that public use does not include the taking of owner-occupied residential property for private use.

~~Existing provisions of the California Constitution require that specified state funds be applied annually for the support of school districts and community college districts in an amount not less than the greater of the amounts calculated under 3 different tests: (1) the~~

~~amount that as a percentage of General Fund revenues appropriated for school districts and community college districts is equal to the percentage of General Fund revenues appropriated for that purpose in the 1986-87 fiscal year, (2) the amount required to ensure that the total allocations to school districts and community college districts from General Fund proceeds of taxes and allocated local proceeds of taxes are not less than the total amount from these sources in the prior fiscal year adjusted for changes in enrollment and cost of living, operative only in a fiscal year in which the percentage growth in per capita personal income is less than or equal to the percentage growth in per capita General Fund revenues plus .5%, or (3) the amount calculated pursuant to (2), but adjusted for changes in enrollment and the change in per capita General Fund revenues, operative only when the percentage growth in per capita personal income is greater than the percentage growth in per capita General Fund revenues plus .5%.~~

~~Existing provisions of the California Constitution also permit the suspension of these provisions by the Legislature, with certain requirements, and provide that school districts or community college districts are entitled to a maintenance factor, as specified, if these provisions are suspended by the Legislature, or if funding of the public education system is computed pursuant to test (3), as described above.~~

~~This measure would require a maintenance factor determined for any fiscal year to be allocated in full to school districts and community college districts, with interest, no later than 3 fiscal years following the fiscal year in which the entitlement to the maintenance factor arose.~~

~~The measure would entitle school districts and community college districts to an additional allocation, for each fiscal year during which there exists an outstanding maintenance factor, that is equal to the sum of all maintenance factors for prior fiscal years that have not been allocated in full, adjusted for changes in enrollment, and adjusted for the change in the cost of living. The measure would provide for the payment of this amount in each fiscal year in which there exists no outstanding maintenance factor, in accordance with certain requirements.~~

~~The measure would impose additional conditions on the authority of the Legislature to suspend the obligation to provide the minimum educational funding described above, including the requirements that the Governor issue a proclamation declaring a severe state fiscal~~

hardship and that the Legislature provide for the allocation of the maintenance factor as required by this measure.

~~The measure would also provide that, if the Legislature suspends the minimum educational funding obligation for a fiscal year, the total allocations made to school districts and community college districts and allocated local proceeds of taxes for that fiscal year must, in the aggregate, equal not less than 92% of the aggregate amount of those allocations made in the prior fiscal year.~~

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: ~~yes~~ no.
State-mandated local program: no.

1 *WHEREAS, This measure shall be known and may be cited as*
2 *“The California Homeowners’ Protection Act”; and*
3 *WHEREAS, It is the intent of the people of the State of*
4 *California that public agencies shall not use their powers of*
5 *eminent domain to take private, owner-occupied homes for the*
6 *benefit of other private property owners; and*
7 *WHEREAS, This amendment shall apply only to condemnation*
8 *actions that are completed after this amendment goes into effect;*
9 *now, therefore, be it*
10 *RESOLVED BY THE SENATE, THE ASSEMBLY*
11 *CONCURRING, That the Legislature of the State of California at*
12 *its 2005-06 Regular Session commencing on the sixth day of*
13 *December 2004, two-thirds of the membership of each house*
14 *concurring, hereby proposes to the people of the State of*
15 *California, that the Constitution of the State be amended as*
16 *follows:*
17 That Section 19 of Article I thereof is amended to read:
18 SEC. 19. (a) Private property may be taken or damaged for
19 public use only when just compensation, ascertained by a jury
20 unless waived, has first been paid to, or into court for, the owner.
21 The Legislature may provide for possession by the condemnor
22 following commencement of eminent domain proceedings upon
23 deposit in court and prompt release to the owner of money
24 determined by the court to be the probable amount of just
25 compensation.
26 (b) *Public use does not include the taking of owner-occupied*
27 *residential property for private use.*
28 ~~Resolved by the Senate, the Assembly concurring, That the~~
29 ~~Legislature of the State of California at its 2005-06 Regular~~

~~Session commencing on the sixth day of December 2004, two-thirds of the membership of each house concurring, hereby proposes to the people of the State of California, that the Constitution of the State be amended as follows:~~

~~That Section 8 of Article XVI thereof is amended to read:~~

~~SEC. 8. (a) From all state revenues there shall first be set apart the moneys to be applied by the State for support of the public school system and public institutions of higher education.~~

~~(b) Commencing with the 1990-91 fiscal year, the moneys to be applied by the State for the support of school districts and community college districts shall be not less than the greater of the following applicable amounts:~~

~~(1) The amount that, as a percentage of General Fund revenues that may be appropriated pursuant to Article XIII B, equals the percentage of General Fund revenues appropriated for school districts and community college districts, respectively, in the 1986-87 fiscal year.~~

~~(2) The amount required to ensure that the total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B and allocated local proceeds of taxes are not less than the total amount from these sources in the prior fiscal year, excluding any revenues allocated pursuant to subdivision (a) of Section 8.5, adjusted for changes in enrollment and adjusted for the change in the cost of living pursuant to paragraph (1) of subdivision (c) of Section 8 of Article XIII B. This paragraph is operative only in a fiscal year in which the percentage growth in California per capita personal income is less than or equal to the percentage growth in per capita General Fund revenues plus one-half of one percent.~~

~~(3) (A) The amount required to ensure that the total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B and allocated local proceeds of taxes equal the total amount from these sources in the prior fiscal year, excluding any revenues allocated pursuant to subdivision (a) of Section 8.5, adjusted for changes in enrollment and adjusted for the change in per capita General Fund revenues:~~

~~(B) In addition to the amount computed pursuant to subparagraph (A), an amount equal to one-half of one percent~~

1 times the prior year total allocations to school districts and
2 community colleges from General Fund proceeds of taxes
3 appropriated pursuant to Article XIII B and allocated local
4 proceeds of taxes, excluding any revenues allocated pursuant to
5 subdivision (a) of Section 8.5, adjusted for changes in
6 enrollment.

7 (C) This paragraph is operative only in a fiscal year in which
8 the percentage growth in California per capita personal income in
9 a fiscal year is greater than the percentage growth in per capita
10 General Fund revenues plus one-half of one percent.

11 (e) In any fiscal year, if the amount computed pursuant to
12 paragraph (1) of subdivision (b) exceeds the amount computed
13 pursuant to paragraph (2) of subdivision (b) by a difference that
14 exceeds one and one-half percent of General Fund revenues, the
15 amount in excess of one and one-half percent of General Fund
16 revenues shall not be considered allocations to school districts
17 and community colleges for purposes of computing the amount
18 of state aid pursuant to paragraph (2) or (3) of subdivision (b) in
19 the subsequent fiscal year.

20 (d) In any fiscal year in which school districts and community
21 college districts are allocated funding pursuant to paragraph (3)
22 of subdivision (b) or pursuant to subdivision (h), they shall be
23 entitled to a maintenance factor, equal to the difference between
24 (1) the amount of General Fund moneys that would have been
25 appropriated pursuant to paragraph (2) of subdivision (b) if that
26 paragraph had been operative or the amount of General Fund
27 moneys that would have been appropriated pursuant to
28 subdivision (b) had subdivision (b) not been suspended, and (2)
29 the amount of General Fund moneys actually appropriated to
30 school districts and community college districts in that fiscal
31 year.

32 (e) The maintenance factor for school districts and community
33 college districts determined pursuant to subdivision (d) for any
34 fiscal year shall be adjusted annually for changes in enrollment,
35 and adjusted for the change in the cost of living pursuant to
36 paragraph (1) of subdivision (e) of Section 8 of Article XIII B,
37 until it has been allocated in full. The maintenance factor shall be
38 allocated in full, in a manner determined by the Legislature,
39 including interest as provided by law, no later than the end of the
40 third fiscal year following the fiscal year in which the entitlement

1 to the maintenance factor arose pursuant to subdivision (d). The
2 interest paid on a maintenance factor shall not be considered an
3 allocation to school districts and community college districts for
4 purposes of this section for any fiscal year.

5 (f) (1) For each fiscal year during which there exists an
6 outstanding maintenance factor from a prior fiscal year pursuant
7 to subdivision (d), school districts and community college
8 districts shall be entitled to an allocation, in addition to the
9 amounts allocated pursuant to subdivisions (b) and (d), equal to
10 the sum of all maintenance factors for prior fiscal years that have
11 not been allocated in full pursuant to subdivision (c), adjusted for
12 changes in enrollment, and adjusted for the change in the cost of
13 living pursuant to paragraph (1) of subdivision (c) of Section 8 of
14 Article XIII B.

15 (2) Payment of the allocation entitlement provided for by this
16 subdivision shall be made, in a manner determined by the
17 Legislature, in each fiscal year in which there exist no
18 outstanding maintenance factors pursuant to subdivision (d) and
19 in which the percentage growth in per capita General Fund
20 revenues exceeds the percentage growth in California per capita
21 personal income.

22 (3) The minimum amount to be allocated in a fiscal year
23 pursuant to this subdivision shall be equal to the product of
24 General Fund revenues from proceeds of taxes and one-half of
25 the difference between the percentage growth in per capita
26 General Fund revenues from proceeds of taxes and the
27 percentage growth in California per capita personal income, not
28 to exceed the total dollar amount of the allocation required
29 pursuant to this subdivision.

30 (4) The allocation required by this subdivision shall not be
31 considered allocations to school districts and community colleges
32 for purposes of computing the amount of state aid pursuant to
33 paragraph (2) or (3) of subdivision (b) in the subsequent fiscal
34 year.

35 (g) For purposes of this section, “changes in enrollment” shall
36 be measured by the percentage change in average daily
37 attendance. However, in any fiscal year, there shall be no
38 adjustment for decreases in enrollment between the prior fiscal
39 year and the current fiscal year, unless there have been decreases
40 in enrollment between the second prior fiscal year and the prior

1 fiscal year and between the third prior fiscal year and the second
2 prior fiscal year.

3 ~~(h) (1) Subparagraph (B) of paragraph (3) of subdivision (b)~~
4 ~~may be suspended for one fiscal year only if made part of or~~
5 ~~included within any bill enacted pursuant to subdivision (c) of~~
6 ~~Section 12 of Article IV.~~

7 ~~(2) All other provisions of subdivision (b) may be suspended~~
8 ~~for one fiscal year by the enactment of an urgency statute~~
9 ~~pursuant to Section 8 of Article IV, provided that all of the~~
10 ~~following conditions are met:~~

11 ~~(A) The urgency statute is not made part of or included within~~
12 ~~any bill enacted pursuant to subdivision (c) of Section 12 of~~
13 ~~Article IV.~~

14 ~~(B) The Governor issues a proclamation declaring that the~~
15 ~~suspension is necessary due to a severe state fiscal hardship.~~

16 ~~(C) The urgency statute provides for the allocation, as required~~
17 ~~by subdivision (c), of the maintenance factor arising from that~~
18 ~~suspension.~~

19 ~~(D) There does not exist an outstanding maintenance factor.~~

20 ~~(i) The specified provisions of subdivision (b) may not be~~
21 ~~suspended pursuant to paragraph (2) of subdivision (h) for more~~
22 ~~than two fiscal years during any period of 10 consecutive fiscal~~
23 ~~years.~~

24 ~~(j) In the event of a suspension of the specified provisions of~~
25 ~~subdivision (b) pursuant to paragraph (2) of subdivision (h) for~~
26 ~~any fiscal year, the total allocations to school districts and~~
27 ~~community college districts from General Fund proceeds of taxes~~
28 ~~appropriated pursuant to Article XIII B and allocated local~~
29 ~~proceeds of taxes for that fiscal year shall, in the aggregate, equal~~
30 ~~not less than 92 percent of the aggregate amount of those~~
31 ~~allocations made in the prior fiscal year.~~